

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ANTHONY J. CURRY,

Plaintiff,

v.

CIVIL ACTION NO. 5:09-cv-00859

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted his *Proposed Findings and Recommendation* [Docket 16] wherein he recommends that this Court grant the Plaintiff's motion for judgment on the pleadings, deny the Defendant's motion for judgment on the pleadings, remand the matter for an award of benefits from January 1999 through January 2000, reverse the final decision of the Commissioner, and remand the matter for further proceedings pursuant to 42 U.S.C. § 405(g).


Neither party has filed timely objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

Accordingly, the Court **ADOPTS** and incorporates herein the *Proposed Findings and Recommendation* of the Magistrate Judge. The Court **ORDERS** that the Plaintiff's motion for

judgment on the pleadings [Docket 11] be **GRANTED**, the Defendant's motion for judgment on the pleadings [Docket 14] be **DENIED**, this matter be **REMANDED** for an award of benefits from January 1999 through January 2000 and the final decision of the Commissioner be **REVERSED** consistent with the *Proposed Findings and Recommendation*. It is further **ORDERED** that this matter be **REMANDED** for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented parties.

ENTER: September 3, 2010



IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA